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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,092	09/03/2003	Ruth G. Blouch		4896
7590	08/18/2004			
Joseph P. Katrick, Esq. 5814 Ebenezer Road White Marsh, MD 21162			EXAMINER COHEN, AMY R	
			ART UNIT 2859	PAPER NUMBER

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/654,092	Applicant(s) BLOUCH, RUTH G.	
	Examiner Amy R Cohen	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 2,5-20 and 23-37 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/3/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 4 and 21 are objected to because of the following informalities:

Claim 4 claim language “at the proximal and the distal said end edges” is awkward and lacks antecedent basis in the claims since the end edges were previously referred to as “leading or trailing end edges.”

Claim 21 lines 14-16 “the mesial V-shaped notches” and “the series of recesses and lands nearest its end” lack antecedent basis in the claims.

Appropriate correction is required.

2. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 22 does not further limit the apparatus claim 3 on which it is dependent. Claim 22 claim language is directed toward the intended use of the object, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayer (U. S. Patent No. 697,701) in view of Craig (U. S. Patent No. 3,805,390).

Ayer discloses a multi-functional measuring device (a) comprising: an elongate rectangular prismatic body having flat upper and lower faces (Figs. 1 and 2), an elongated rectangular perimeter bounded by a stepped upper long edge and a straight lower long edge and parallel straight short leading and trailing end edges (Figs. 1 and 2), said upper long edge having stepped subdivisions increasing in width from said lower long edge to the center of the device from either said straight leading or trailing end edge (Fig. 1).

Ayer does not disclose the measuring device further having a plurality of linearly arrayed holes corresponding to said steps on said upper long edge, located along the wide side of the measuring device near its straight edge.

Craig discloses a measuring device (100) comprising: an elongate rectangular prismatic body having flat upper and lower faces (Figs. 1 and 2), an elongated rectangular perimeter bounded by a notched upper long edge and a straight lower long edge and parallel straight short leading and trailing end edges (Figs. 1 and 2), further having a plurality of linearly arrayed holes (108) corresponding to said notches on said upper long edge, located along the wide side of the measuring device near its straight edge (Fig. 1).

Craig discloses the measuring device comprising a V-shaped notch at the proximal and the distal said end edges and arranged collinear with said array of through holes, said V-shaped notches extending full width across said end edge (Fig. 1).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measuring device of Ayer to include a plurality of holes, as taught by Craig, so that a user could use the holes to mark off distances on a surface (Craig, Col 2, lines 35-65 and Fig. 3).

5. Claims 1, 3, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayers in view of Georges (U. S. Patent No. 2,939,219).

Ayer discloses a multi-functional measuring device (a) comprising: an elongate rectangular prismatic body having flat upper and lower faces (Figs. 1 and 2), an elongated rectangular perimeter bounded by a stepped upper long edge and a straight lower long edge and parallel straight short leading and trailing end edges (Figs. 1 and 2), said upper long edge having stepped subdivisions increasing in width from said lower long edge to the center of the device from either said straight leading or trailing end edge (Fig. 1).

Ayer does not disclose the measuring device further having a plurality of linearly arrayed holes corresponding to said steps on said upper long edge, located along the wide side of the measuring device near its straight edge; comprising a V-shaped notch at the mesial location of said notched upper long edge and said straight lower long edge.

Georges discloses a measuring device (Fig. 3) comprising: an elongate rectangular prismatic body having flat upper and lower faces (Figs. 3-5), an elongated rectangular perimeter bounded by a notched upper long edge and a straight lower long edge and parallel straight short leading and trailing end edges (Figs. 1 and 3), further having a plurality of linearly arrayed holes (72) corresponding to said notches on said upper long edge, located along the wide side of the measuring device near its straight edge (Figs. 1 and 3).

Georges discloses the measuring device comprising a V-shaped notch at the mesial location of said notched upper long edge and said straight lower long edge (20, 22), said V-shaped notches being oriented transverse to said upper and lower faces and extending the full width across said long edges (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measuring device of Ayer to include a plurality of notches, as taught by Georges, so that a user could use the notches to mark off distances from a center on a surface (Georges, Col 1, lines 50-70 and Fig. 1).

Regarding claim 22: it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ayer and Craig as applied to claims 1 and 4 above, and further in view of Trump (U. S. Patent No. 4,802,283).

Ayer and Craig disclose the measuring device as described above in paragraph 4.

Ayer and Craig do not disclose a measuring device in conjunction with a non-stretchable cord, wire, or other non-stretchable item whereby one can acquire and evaluate curvilinear distances and distances greater in length than said device by comparison of the cord with the gradations of said device, having affixed any convenient length of a non-stretchable cord in a suitable manner, then having employed it as an effective extension of the measuring device length by (a) drawing the cord across the (straight or curvilinear) path to be measured and (b) noting the extent of cord utilized by marking, grasping, knotting, severing or other, whereupon

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one can then replicate that distance or path using the cord or evaluate the measurement obtained by (c) comparing the cord length of interest to the measuring device, including lengths greater than the measuring device length which can be obtained by wrapping said cord about the proximal and distal V-shaped notches, then counting the multiple strands arranged on each face of the measuring device, after which (d) the remainder length of said cord and distances lesser than the measuring device length can be evaluated by successive comparison to first the mesial V-shaped notches, next the through holes and steps, and further the series of recesses and lands nearest its end.

Trump discloses a measuring device (10) in conjunction with a non-stretchable cord (36), wire, or other non-stretchable item whereby one can acquire and evaluate curvilinear distances and distances greater in length than said device by comparison of the cord with the gradations of said device, having affixed any convenient length of a non-stretchable cord in a suitable manner, then having employed it as an effective extension of the measuring device length by (a) drawing the cord across the (straight or curvilinear) path to be measured and (b) noting the extent of cord utilized by marking, grasping, knotting, severing or other, whereupon one can then replicate that distance or path using the cord or evaluate the measurement obtained by (c) comparing the cord length of interest to the measuring device, including lengths greater than the measuring device length which can be obtained by wrapping said cord about the proximal and distal V-shaped notches, then counting the multiple strands arranged on each face of the measuring device, after which (d) the remainder length of said cord and distances lesser than the measuring device length can be evaluated by comparison to the scales on the measuring device (Col 4, lines 4-20 and Figs. 1-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the measuring device of Ayer and Craig to be used in conjunction with a cord, as taught by Trump, so that a length which is longer than the measuring device could be easily and accurately measured (Trump, Col 4, lines 4-20).

Allowable Subject Matter

7. Claims 2, 5-20, 23-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

8. The following is a statement of reasons for the indication of allowable subject matter:

Claim 2: The prior art of record does not disclose or suggest a multi-functional measuring device comprising holes of two types; said holes alternating between said straight holes and aid counter-bored holes.

Claim 5: The prior art of record does not disclose or suggest a multi-functional measuring device comprising a plurality of equal recessed and non-recessed subdivisions diving each of said steps in combination with the remaining limitations of the claims.

Claim 6: The prior art of record does not disclose or suggest a multi-functional measuring device comprising a plurality of narrow slots extending partially across the upper edge and face, and subdividing each of said ascending or descending steps.

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Claims 7 and 20: The prior art of record does not disclose or suggest a multi-functional measuring device comprising subdivisions of each ascending or descending step by notches in combination with the remaining limitations of the claims.

Claims 8-19, 23-37: The prior art of record does not disclose or suggest a multi-functional measuring device comprising a series of recesses and lands or slots and lands within the interval demarcated by each step in combination with the remaining limitations of the claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose measuring devices Concari et al. (U. S. patent No. 5,501,019), Wang (U. S. Patent No. 5,050,309), Bilodeau et al. (U. S. Patent No. 4,565,012), Sturz (U. S. Patent No. 4,455,750), Mutter (U. S. Patent No. 3,315,361), Johnson (U. S. Patent No. 2,595,081), Gleasman (U. S. Patent No. 2,579,664), Ermold (U. S. Patent No. 2,554,099), White (U. S. Patent No. 2,507,073), Kurtz, Jr. (U. S. Patent No. 1,877,341), Cronk (U. S. Patent No. 1,860,174), Scherer (U. S. Patent No. 1,624,150), Brose (U. S. Patent No. 1,380,187), Frye, Jr. (U. S. Patent No. 1,348,861), Menssen (U. S. Patent No. 1,317,030), Cleophas (U. S. Patent No. 1,126,398), Rapson (U. S. Patent No. 888,848), and White (U. S. Patent No. 645,653).

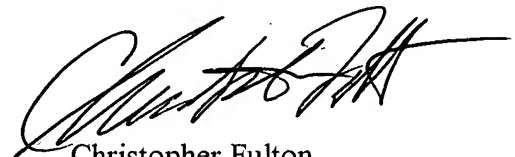
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
August 17, 2004

A handwritten signature in black ink, appearing to read 'Christopher Fulton', with a stylized flourish at the end.

Christopher Fulton
Primary Examiner
Tech Center 2800